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CARL W. NORTHROP

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October 30, 1992

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

Re: **Supplement -- Ex Parte Presentation**  
GEN Docket No. 90-314; ET Docket No. 92-100 ✓  
CC Docket No. 92-115

Dear Ms. Searcy:

On October 28, 1992, the Commission was notified of a ex parte presentation ("Notice") by Mark Stachiw, Counsel for PacTel Paging, and William F. Adler, Executive Director--Federal Regulatory Relations, of Pacific Telesis, during meetings with FCC representatives in regard to the above-referenced proceedings (see copy attached). This letter supplements the earlier Notice to reflect that Messrs. Stachiw and Adler also met with John Cimko and Myron Peck of the Mobile Services Division. In addition, a copy of the attached documentation related to CC Docket No. 91-115 was also distributed at the October 28 meetings.

Should any questions arise in connection with this matter, please contact the undersigned.

Sincerely,

  
Carl W. Northrop**Attachments**

cc: Cheryl Tritt, Chief, Common Carrier Bureau  
John Cimko, Jr., Chief, Mobile Services Division  
Myron C. Peck, Deputy Chief, Mobile Services Division  
James Gattuso, Deputy Chief, Office of Plans and Policy  
Thomas P. Stanley, Chief Engineer, Office of  
Engineering and Technology  
Linda Oliver, Legal Advisor to Commissioner Duggan

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OCT '30 1992

MEMORANDUM

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TO: Carl W. Northrop  
FROM: Ash Johnston  
DATE: October 26, 1992  
RE: SUMMARY OF COMMENTS FILED IN CC DOCKET NO. 92-115  
(PART 22 REWRITE PROCEEDING)

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**I. SCOPE OF COMMENTS**

Thirty-seven parties filed Comments (see attached chart listing Commenter name, length of Comments, counsel, general scope of the filing party's Comments). The chart divides the Comments roughly into three categories: (1) comments were extensive (generally more than 25 pages) and covering numerous topics; (2) comments were of moderate length (generally between 10 and 25 pages) and covered only a few major topics; (3) comments were brief (generally less than 10 pages) and covered only one or a few topics.

## **II. THE ISSUES**

### **A. Major Issues Discussed in Bryan Cave's Comments and in Many of the Other Comments**

The attached charts indicate whether the Commenters generally supported or opposed the referenced proposals, their concerns, and their proposed alternatives. The charts cover those proposals which drew the most attention from the Commenters, as follows:

#### **Proposed Changes Which the Bryan Cave Commenters Generally Support:**

1. Elimination of notification requirements for minor changes and additional transmitters within contours of authorized stations. [pages 9-12]
2. Replacement of Carey method. [pages 13-16]
3. Elimination of traffic loading studies. [pages 17-19]
4. Automatic termination of authorizations. [pages 20-22]
5. Finder's preference. [pages 23-26]
6. Notification requirement. [pages 27-29]

#### **Proposed Changes Which the Bryan Cave Commenters Generally Oppose**

1. 1st come, 1st served application processing. [pages 30-32]
2. Conditional grants. [pages 33-35]
3. Prohibition on Multi-Frequency transmitters. [pages 36-39]
4. No reapplication for one year if authorization expires. [pages 40-42]
5. Definition of minor changes. [pages 43-47]
6. Definition of service to the public. [pages 48-51]
7. Limits on settlement payments. [pages 52-54]

<u>CATEGORY</u>	<u>COMMENTER</u>	<u>PAGES</u>	<u>COUNSEL</u>	<u>SCOPE OF COMMENTS</u>
1	BellSouth Corp./BellSouth Enterprises	81	in-house - William Barfield/ David Richards	Discusses major proposals, consistency with other rulemaking proceedings, assignments and transfers, and Forms. Very similar to US West Comments.
1	Comp Comm, Inc.	40	G. Schrenk	Discusses major proposals, general application rules, paging and radiotelephone and cellular service rules and Form 401.
1	McCaw Cellular Communications, Inc.	40	in-house - Mark Hamilton/Cathleen Massey	Discusses major proposals, general application rules, operational and technical rules, and paging and radiotelephone and cellular services rules.
1	Paging Network, Inc.	46	Reed Smith Shaw & McClay - J. St. Ledger-Roty	Discusses most major proposals, general application rules, and operational and technical rules.
1	Arthur K. Peters Consulting Engrs.	31	Self	Discusses most major proposals, some general application rules, operational and technical rules.
1	Radiofone, Inc.	27	H. Mordkofsky	Discusses most major proposals, some general application rules, some operational and technical rules.

<u>CATEGORY</u>	<u>COMMENTER</u>	<u>PAGES</u>	<u>COUNSEL</u>	<u>SCOPE OF COMMENTS</u>
1	Southwestern Bell Corp.	31	in-house - James Ellis/Wm. Free	Discusses most major proposals, some general application rules, and some cellular rules.
1	Telocator	87	Wiley Rein & Fielding - M. Senkowski	Discusses major proposals, general application rules, Forms, paging and mobile telephone rules, control channel rules, air-ground and cellular services rules.
1	U.S. West Newvector Group, Inc.	84	Wilkinson, Barker, Knauer & Quinn - Leon Knauer	Discusses major proposals, related rulemaking proceedings, assignments and transfers, general application rules, operational and technical rules, cellular rules, Forms.
2	Bell Atlantic Companies	25	Crowell & Moring - John Scott	Discusses general rules, cellular rules, forms, and cross-reference table. Discussion of major proposals is minimal.
2	CTIA	9	in-house - Michael Altschul	Discusses general rules, and some cellular rules. Almost no discussion of major proposals.
2	Centel Cellular Company	8	in-house - Kevin Gallagher	Discusses related rulemaking proceedings and some general rules.

<u>CATEGORY</u>	<u>COMMENTER</u>	<u>PAGES</u>	<u>COUNSEL</u>	<u>SCOPE OF COMMENTS</u>
2	GTE Service Corp.	32	in-house - Daniel Bart	Discusses major proposals, general application rules, operational and technical rules, rural radiotelephone services rules, air-ground service rules, and cellular rules.
2	Metrocall of Delaware, Inc.	34	in-house - Harry Brock/ Christopher Kidd	Virtually identical to Telocator's comments.
2	New Par	22	Skadden Arps - Tom Casey	Discusses some major proposals, some general application and operational and technical rules, and several cellular rules.
2	Nynex Mobile Communications Co.	14	in-house - Ed Wholl/Steph en Wiznitzer	Discusses some major proposals.
2	SMR Systems, Inc.	16	Pepper & Corazzini - W. Franklin	Discusses major proposals, some general application rules, and some technical rules.
2	SNET Paging, Inc.	14	Ginsburg, Feldman & Bress - Rodney Joyce	Discusses several major proposals.

<u>CATEGORY</u>	<u>COMMENTER</u>	<u>PAGES</u>	<u>COUNSEL</u>	<u>SCOPE OF COMMENTS</u>
2	U.S. Small Business Administration	22	Barry Pineles	Focus is on small paging operators. Discusses several major proposals.
3	ALLTEL Mobile Communications, Inc.	4	in-house - Carolyn Hill	Worked with CTIA on their Comments. Briefly treats a few topics.
3	The Antenna Specialists Company	3	in-house - C. Watkins/J. Knauss	Discusses §22.507(a) only.
3	Applicants Against Lottery Abuses	16	Fisher Wayland Cooper & Leader	Discusses only limitation on settlement payments and two concerns with Form 401.
3	Richard L. Biby, Communications Engineering Services, P.C.	2	Self	Discusses only §22.371 (Disturbance of AM Broadcast station antenna patterns).
3	Claircom Communications Group	10	Akin, Gump - Tom Davidson	Primary focus is ATG Service Rules. Also discusses some general rules.
3	du Treil, Lundin & Rackley, Inc.	2	L. du Treil	Discusses only §22.371.
3	Hatfield & Dawson Consulting Engineers, Inc.	4	in-house	Discusses §22.371, §22.157 and §22.159.

<u>CATEGORY</u>	<u>COMMENTS</u>	<u>PAGES</u>	<u>COUNSEL</u>	<u>SCOPE OF COMMENTS</u>
3	International Mobile Machines Corp.	20	in-house - Jack Taylor	Focuses exclusively on BETRS.
3	Joyce & Jacobs	9	Fred Joyce	Discusses some major proposals.
3	Pacific Bell/Nevada Bell	9	in-house - William Adler/James Tuthill/Lucinda Mates	Discusses most major proposals and some general application rules.
3	PacTel Cellular	6	in-house - William Adler/M. Mowery	Discusses some general application rules, Forms, related rulemaking proceedings, some cellular rules.
3	Pac-West Telecomm, Inc./PagePrompt U.S.A.	6	Pepper & Corazzini - W. Franklin	Discusses only §22.507(a).
3	Page America Group, Inc.	9	Lathan & Watkins - James Rogers, Roy Growchowski	Discusses some major proposals, and some general application rules.
3	Petroleum Communications, Inc.	7	A. Blooston	Discusses only §22.913(b) -- suggests revising to take into account signal propagation in Gulf of Mexico.
3	RVC Services, Inc.	2	Hogan & Hartson - R. Rodin	Same as Petroleum Comms., Inc.



<u>CATEGORY</u>	<u>COMMENTER</u>	<u>PAGES</u>	<u>COUNSEL</u>	<u>SCOPE OF COMMENTS</u>
3	SkyTel Corp.	4	T. Gutierrez	Generally supports Telocator. Discusses only two major proposals.
3	United States Telephone Association	9	in-house - Martin McCue/Linda Kent	Discusses some general application rules, some operational and technical rules, Form 401.
3	Vanguard Cellular Systems, Inc.	4	in-house - Richard Rowlenson	Discusses some general rules, cellular rules.

<b>COMMENTER</b>	<b>\$22.509: 1st-come, 1st-served application processing.</b>	
<b>BRYAN CAVE</b>	<b>Opposes</b>	
<b>ALLTEL</b>	<b>Opposes</b>	<b>Retain current process with preference for existing licensees in event of frequency conflicts.</b>
<b>AALA</b>		
<b>TASC</b>		
<b>BELL ATLANTIC</b>		
<b>BELLSOUTH</b>		<b>Modify to limit eligibility to existing co-channel licensees within 250 Km, and reduce cut-off period for filing MX applications to 30 days from PN.</b>
<b>BIBY</b>		
<b>CTIA</b>		
<b>CENTEL</b>		
<b>CLAIRCOM</b>		
<b>COMP COMM</b>		
<b>du TREIL</b>		
<b>GTE SERVICE CORP.</b>	<b>Supports</b>	
<b>HATFIELD &amp; DAWSON</b>		

COMMENTS	§22.509: 1st-come, 1st-served application processing.	
IMM		
JOYCE & JACOBS	Opposes	
MCCAW	Opposes	Prevents system expansion. Other proposals will speed processing. Should allow co-channel licensees 30 days from PN to file MX application.
METROCALL	Opposes	See Telocator.
NEW PAR		
NYNEX MCC	Opposes	Retain 60-day cut-off procedures.
PAC BELL		
PACTEL CELLULAR		
PAC-WEST		
PAGE AMERICA GROUP	Supports	But concerned about inability to expand system.
PAGENET	Supports	Allows preconstruction with reasonable certainty of grant and minimizes possibility of frequency being authorized to licensee seeking to delay another carrier.
PETERS CONSULTING ENGRS.	Opposes	FCC's reasoning presupposes that "strike" applications are only filed <u>after</u> the "impeded" application. A first-filed strike applicant can benefit (even if 22.129 is adopted) by inhibiting another carrier's system expansion. Alternative: allow 30-day window for filing of MX applications by existing co-channel licensees or applicants within certain geographic area.
PETROCOM		

COMMENTS	§22.509: 1st-come, 1st-served application processing.	
RADIOFONE	Opposes	May actually provide incentive for preemptive strike filings. Modify to allow existing licensee to file MX app. if frequency is within 40 miles of proposed site; if both carriers have legitimate interests in the frequency, use lottery or paper hearing procedures. Also, FCC may lack statutory authority to adopt this rule.
RVC		
SKYTEL	Opposes	
SBA	Opposes	FCC may unintentionally <u>increase</u> number of apps. filed - note MMDS. Decreases ability of small systems to expand.
SMR SYSTEMS	Supports	But only if modified to allow existing co-channel licensees and permittees within 108 Km (67 miles) to file MX application within 30 days of PN.
SNET	Supports	Modify to allow existing licensee whose system covers the majority of a market to file competing application within 30 days of PN.
SW BELL		"Lotteries make up less than 1% of all applications filed." Modify to allow 30-day window for filing MX applications.
TELOCATOR	Opposes	Unless modified to allow co-channel licensees within 250 Km of proposed facilities to file MX application within 30 days of PN. Proposal will force expansion for regulatory, rather than business reasons; will force increase in number of apps. filed (note 220-222 MHz proceeding).
USTA		
U.S. WEST	Opposes	Will result in increased applications <u>and</u> petitions to deny. Instead, adopt limit on settlement payments and modify this proposal to allow licensees to respond to applications filed within 40 miles of their authorized stations.
VANGUARD		

COMMENTS	§§22.132, 22.147: Conditional Grant.	
BRYAN CAVE	Opposes	
ALLTEL		
AALA		
TASC		
BELL ATLANTIC		Opposes §22.132(c) requirement that an applicant seeking reconsideration of issuance of a conditional grant "reject the partial or conditional grant and return the ... authorization." If interference results because of inaccurate technical exhibits, FCC can order the license to be modified.
BELLSOUTH	Opposes	
BIBY		
CTIA		Clarify whether proposal applies to cellular service. Limit conditional period to 1-2 years.
CENTEL		
CLAIRCOM		
COMP COMM		
du TREIL		
GTE SERVICE CORP.		

<b>COMMENTER</b>	<b>§§22.132, 22.147: Conditional Grant.</b>	
<b>HATFIELD &amp; DAWSON</b>		
<b>IBM</b>		
<b>JOYCE &amp; JACOBS</b>	<b>Opposes</b>	
<b>MCCAW</b>		
<b>METROCALL</b>	<b>Opposes</b>	<b>See Telocator.</b>
<b>NEW PAR</b>		
<b>NYNEX MCC</b>	<b>Supports</b>	
<b>PAC BELL</b>		
<b>PACTEL CELLULAR</b>		
<b>PAC-WEST</b>		
<b>PAGE AMERICA GROUP</b>		
<b>PAGENET</b>		
<b>PETERS CONSULTING ENGRS.</b>		<b>Technical certification should be signed by person responsible for completing the technical portion of the application and should include statement that the signator is familiar with Part 22 technical rules.</b>
<b>PETROCOM</b>		

COMMENTER	§§22.132, 22.147: Conditional Grant.	
RADIOPHONE	Opposes	Proposal circumvents §312 of Act; notes that APA §552(a)(2)(c) appears to require FCC to maintain official database as prerequisite to conditional grants. Need to define "actual interference" and clarify that it must be caused by errors or omission in the technical portion of the application.
RVC		
SKYTEL		
SBA	Opposes	FCC shouldn't rely on small businesses to perform regulatory oversight. Also, limits financing. Alternative: order to cease operations.
SMR SYSTEMS		Modify so that conditions automatically expire after 12 months. Limits financing; discriminates against new entrants.
SNET	Supports	But modify so that conditions automatically expire 12 months after service commences in the absence of a formal complaint of interference prior to then.
SW BELL	Opposes	Modify to make conditional period shorter, <u>e.g.</u> , one year. Do not apply retroactively.
TELOCATOR	Opposes	Alternative: Limit period of time that carrier would be required to shut off facilities for interference reasons without notice and opportunity for hearing, to one year from commencement of service to the public (or from PN of Form 489 filing).
USTA		
U.S. WEST	Opposes	Alternative: Unconditionally grant applications based on technical showings without FCC verification (thereby affording interference protection and relative certainty while reducing processing time). If interference results, FCC may modify license pursuant to §316 of the Act.
VANGUARD		

<b>COMMENTER</b>	<b>§22.507(a): Prohibitions on use of multi-frequency transmitters and §22.507(b) shared use of transmitters for different services.</b>	
<b>BRYAN CAVE</b>	<b>Opposes</b>	
<b>ALLTEL</b>		
<b>AALA</b>		
<b>TASC</b>		Clarify that 22.507(a) doesn't apply to cellular service, which would preclude use of frequency-agile transmitters.
<b>BELL ATLANTIC</b>		
<b>BELLSOUTH</b>	<b>Opposes</b>	Delete 22.507(a).
<b>BIBY</b>		
<b>CTIA</b>		
<b>CENTEL</b>		
<b>CLAIRCOM</b>		
<b>COMP COMM</b>		
<b>du TREIL</b>		
<b>GTE SERVICE CORP.</b>		



<b>COMMENTER</b>	<b>§22.507(a): Prohibitions on use of multi-frequency transmitters and §22.507(b) shared use of transmitters for different services.</b>	
<b>HATFIELD &amp; DAWSON</b>		
<b>IMM</b>		
<b>JOYCE &amp; JACOBS</b>		
<b>MCCAW</b>	Opposes	Other proposed rules will effectively prevent warehousing.
<b>METROCALL</b>	Opposes	Disadvantages common carriers vis-a-vis private carriers. FCC should consider forfeitures and revocation to deter warehousing.
<b>NEW PAR</b>		
<b>NYNEX MCC</b>		
<b>PAC BELL</b>		
<b>PACTEL CELLULAR</b>		
<b>PAC-WEST</b>	Opposes	Modify to limit the prohibition to apply only where a channel is assigned to a single licensee or its affiliates.
<b>PAGE AMERICA GROUP</b>	Opposes	
<b>PAGENET</b>	Opposes	Permit frequency-agile transmitters. Concern that use of one frequency on such a transmitter blocks use of another frequency, is not valid because of "store and forward" technology.
<b>PETERS CONSULTING ENGRS.</b>	Opposes	Valid engineering reasons justify such transmitters. Modify rules governing allocation of additional channels instead.

<b>COMMENTER</b>	<b>§22.507(a): Prohibitions on use of multi-frequency transmitters and §22.507(b) shared use of transmitters for different services.</b>	
<b>PETROCOM</b>		
<b>RADIOFONE</b>		
<b>RVC</b>		
<b>SKYTEL</b>	<b>Supports</b>	Prohibition should not include use where one of the frequencies is authorized for network paging and the other is authorized for non-network use.
<b>SBA</b>	<b>Opposes</b>	Other policies will prevent warehousing. FCC must examine less burdensome alternatives.
<b>SMR SYSTEMS</b>		Allow use in situations that are not conducive to warehousing; <u>e.g.</u> , at one location when the same licensee is operating several single transmitters at other locations in an integrated system; when independent licensees want to share a dual-licensed multi-frequency transmitter; where a single licensee's geographically distinct, separate channel, wide area paging systems overlap.
<b>SNET</b>	<b>Opposes</b>	First-come, first-served rule, one-year prohibition on refiling for authorization that terminated due to failure to construct, and limits on settlement payments are sufficient safeguards. Alternative: allow multi-frequency transmitters only by paging operators whose operations cover a majority of a market.
<b>SW BELL</b>	<b>Opposes</b>	Alternative: allow dual-frequency transmitters. Also, delete 22.375.
<b>TELOCATOR</b>	<b>Opposes</b>	Would place common carrier at competitive disadvantage vis-a-vis private carriers. (Delete 22.375.) Notes that FCC examined this issue in Declaratory Ruling context in 1989.
<b>USTA</b>		
<b>U.S. WEST</b>		Should not apply to Rural Radiotelephone Service.

COMMENTS	§22.507(a): Prohibitions on use of multi-frequency transmitters and §22.507(b) shared use of transmitters for different services.	
VANGUARD		